

Bill to Add U.S. Judges Shortchanges Texas by 6

Legislation Would Add 3 New Courts in Southern District, 1 In Western

BY MARK BALLARD

U.S. Senate legislation that would give Texas four new federal judges is being met with brickbats instead of accolades.

Federal officials in Texas, who have been pleading for judicial reinforcements for years, are outraged that a bill pending in the Senate Judiciary Committee cuts the recommended number of new judges in Texas from 10 to four. And they're calling the measure a grab-for-patronage that further threatens Texas' already overwhelmed civil dockets.

Even with the three new slots slated for the Southern District of Texas and another destined for the

Western District, the chief judges in both districts say they still will have so many drug cases that civil suits will be neglected by early 1991.

"That's not to say civil cases are not being disposed [of now]," Chief U.S. Southern District Judge James DeAnda of Houston said June 11. Civil suits "are being settled. . . . But in McAllen we have reached the point where they are not being tried."

And statistics show the situation in McAllen will spread throughout the rest of the Houston-based district by year's end, even with the proposed additions to his bench, DeAnda said.

Texas gets four new federal judges in the bill introduced May 17 by Senate Judiciary chairman Joseph R. Biden Jr. of Delaware and committee minority leader Strom Thurmond of South Carolina. The last additions to the federal bench were approved in 1984.

At the request of Congress, the Judicial Conference of the United States, the policy-making body of the U.S. courts, had determined that



CEASAR KARAGHI

CHIEF JUDGE LUCIUS BUNTON: Western District judges handle 633 cases each, about twice the docket of each of the other districts slated to get new judges.

Texas needed 10 seats to keep abreast of its growing docket.

While the Biden bill shortchanges Texas by six seats, the measure allots 10 new judgeships to districts where the Judicial Conference says they are unnecessary. Four of those unneeded posts are in Wyoming, Utah, Pennsylvania and New



SHEILA CUNNINGHAM

SOUTHERN DISTRICT CLERK JESSE CLARK: "It takes the heart out of us that no one is listening to us, no one is looking at our statistics."

Hampshire, states represented by Republican Judiciary committee members.

The Biden bill "places judges based on politics and not need," said U.S. Rep. Lamar Smith, R-San Antonio, who sponsored a competing bill that would add nine new seats on

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Texas federal benches. "I consider the Biden bill better than nothing but misdirected."

But a spokesman for Biden said Judicial Conference 1989 recommendations have not been officially received by Congress, and the allotments were made based on the conference's 1988 report.

"They [Texas] got what the Judicial Conference officially recommended," the Biden spokesman said June 14. "Just because the Judicial Conference recommends doesn't mean the Senate rubber-stamps it."

Hearings on the bill are scheduled to begin June 26 and threaten to center on how Biden determined allocations.

The patronage move apparently is designed to drum up support for an unpopular part of Biden's bill, said Chief U.S. District Judge Aubrey E. Robinson Jr. of Washington, D.C., who is on the Judicial Conference committee that tracks federal legislation.

"That's the perception that is ap-

parent on its face," Robinson said June 12. "It's really an unfortunate situation that we do not have the resources allocated where they are needed."

While not commenting directly on the patronage aspects of the measure, Robinson said that in the past Biden has doled out plums in one part of his bills to obtain support for another more controversial portion.

The additions to the bench are in Title II of the Civil Justice Reform Act of 1990. Title I of Senate Bill No. 2648 contains streamlining measures that would reduce delays in federal courts but are widely despised by federal judges, Robinson said.

DeAnda and Chief U.S. Western District Judge Lucius D. Bunton of Midland also have howled to senators about the deficit.

In June 4 letters to Biden and Thurmond, Bunton pointed out that the present judges in all 10 disputed districts carry caseloads below the national average of 459 while his judges are considerably above that number. Western District judges

handle 633 cases each — about twice the docket of each of the 10 districts slated to get new judges.

In addition, the Western District handles more of the labor-intensive criminal felony prosecutions, 164 per judge, than New Hampshire, Utah, Wyoming and Maine combined, Bunton wrote.

"I recognize the politics of the thing," Bunton said June 12. "I'm sure there are cogent, plausible reasons why they need more judges in Wyoming and Utah, but I'm saying we have the statistics that show we need more judges."

As heavy as the caseloads are in the Western District, the situation in the Southern District is worse. Using the same Administrative Office of the U.S. Courts statistics Bunton used, each Southern District judge handled 611 cases as of the end of June 1989. But the Southern District leads the nation in the number of filings and has a pending caseload of nearly three times the Western District's.

Southern District Clerk Jesse E. Clark of Houston, who on DeAnda's

orders is organizing statistics to demonstrate the district's problems, said increased criminal filings have the district's 13 judges now juggling about 800 cases each.

Clark blamed the clogged docket on the federal government's emphasis on prosecuting drug violations. The Southern District has been targeted as having acute drug-trafficking problems and along with the Western District, Southern California, Southern Florida and Arizona has received an influx of federal law enforcement agents.

The massive caseload that district clerks must wrestle on a daily basis has Clark wondering if the addition of three judges might not aggravate the situation by increasing the number of filings without addressing the backlog.

"It's like trying to kill a bear with rock salt: You're only going to get under its skin and irritate it," Clark said June 12. "It takes the heart out of us that no one is listening to us, no one is looking at our statistics. . . . The statistics say we need seven new judges." ■